

IRS



Fact Sheet

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IRS Reminds Businesses to Classify Workers Correctly

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The rash of natural disasters that have hit the United States in the last several months have caused many businesses to hire additional workers to help them meet increased demand for their goods or services. These businesses must make sure they treat their workers properly to make sure everyone can meet their tax obligations.

Most workers fall into two categories:

- Independent contractors
- Common-law employees

The main factor a business must use in determining how to classify its workers is the degree of control the business has over its worker. The more control the business has over a worker; the more likely it is that the worker is an employee rather than an independent contractor.

A business must base its determination as to whether a worker is an employee or an independent contractor on all facts and circumstances of its relationship with the worker. Businesses can use [Form SS-8](#), Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding, to have the IRS make the determination.

It is critical that the business correctly determine whether the individuals providing services are employees or independent contractors. An employer must withhold income taxes, withhold and pay Social Security and Medicare taxes, and pay unemployment tax on wages paid to an employee. In addition, other tax issues, including the provision of certain employee benefits, depend upon the proper classification of workers.

A business generally does not have to withhold or pay any federal taxes on payments to independent contractors. However, independent contractors are subject to self-employment tax and should plan accordingly.

If a business incorrectly classifies a worker, the business could be subject to penalties.

There may be relief for employers who want to correct any errors they may have made by classifying an employee as an independent contractor.

[IRS Headliner 152](#), *IRS Offers Tips on How to Correct Misclassification of Employees*, contains additional information about correcting worker classification. Also, additional information about worker classification and classification correction are in:

- [Publication 15-A](#), Employer's Supplemental Tax Guide
- [Publication 1779](#), Independent Contractor or Employee brochure.
- [Publication 1976](#), Independent Contractor or Employee? Section 530 Employment Tax Relief Requirements

The Headliner, Form SS-8 and the publications are all available on IRS.gov.

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